
(2014) 07 JH CK 0114

In the Jharkhand High Court

Case No : Cr. Rev. No. 169 of 2013, I.A. No. 1988 of 2014 and Cr. Rev. No. 432 of 2014, I.A. No. 2711 of 2014

Jagdish Chandra Adhikari

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 04-07-2014

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1973 (CrPC) — Section 239, 320, 397(2), 482
Penal Code, 1860 (IPC) — Section 323, 323(3), 34, 354, 498A

Citation : (2014) 07 JH CK 0114

Hon'ble Judges : Amitav Kumar Gupta, J

Bench : Single Bench

Advocate : Rajan Raj, Advocate for the Appellant; Shailendra Kr. Singh, Advocate for the Respondent

Judgement

Amitav Kumar Gupta, J.—These criminal revision applications have been directed against the order dated 17/1/2013, passed by the Judicial Magistrate, Ranchi in Manila P.S. Case No. 4/11 corresponding to G.R. No. 1636/11, whereby and whereunder the discharge petition filed by the petitioners under Section 239 Cr.P.C. has been rejected.

2. The facts of the prosecutions' case is that the informant and petitioner's marriage was solemnized on 24.11.2008 as per Hindu rites and customs. It is alleged that the petitioner/Amit Adhikari along with his brother (Jagdish) and sister-in-law (Sanju Adhikari) started demanding Rs. 2 lacs and a car as dowry; that due to non-fulfillment of the demand they started torturing the informant. The informant left her matrimonial home and went to her parental home and the petitioners refused to keep the informant until their demand was not fulfilled and when the informant's father threatened to lodge a complaint the accused took her back. However they again tortured her and an attempt was made to burn her but she managed to escape. That the accused husband along with Surendra Singh @ Pappu Singh came and started assaulting her with an intention to

outrage her modesty.

On the basis of the report Manila P.S. case No. 4 of 2011 was registered and after completion of investigation Police submitted charge-sheet against accused namely Amit Adhikari, Jagdish Chandra Adhikari and Sanjay Adhikari under Section 498A/ 323/ 354/ 34 IPC accordingly cognizance was taken by the learned CJM, Ranchi.

The petitioners filed a petition under Section 239 Cr.P.C. for discharge on the ground that the case was lodge after more than one year of the occurrence. That accused Surendra Singh and Pappu Singh have not been charge-sheeted. That the informant and he husband were residing separately and petitioners Jagdish Chandra Adhikari and Sanju Rani Adhikari never resided with the informant and her husband i.e. petitioner Amit Adhikari.

The learned Judicial Magistrate however on the basis of the case diary, rejected the petition for discharge.

3. Learned counsel for the petitioner has submitted that the parties have compromised the case and they have filed joint compromise petition, enclosed with I.A. No. 1988/2014 and LA. No. 2711/2014, as they have amicably settled their dispute, affidavits of the informant Mitali Adhikari and the petitioners are enclosed herewith. It has further been submitted that the G.R. Case No. 1636/11 arising out of Mahila P.S. Case No. 4/11 may be quashed in view of the fact that parties have willingly compromised the case.

The certified copy of the joint compromise petition filed by the informant in the court below regarding amicable settlement with the petitioners and her prayer to withdraw the case is Annexure-1.

4. In support of his argument he has relied on the decision in the case of B.S. Joshi and Others Vs. State of Haryana and Another, , and submitted that the Hon"ble Apex Court has dwelt on the need to curb the abuse of process of court in matrimonial cases where the parties have agreed to settle their dispute amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts.

5. Learned counsel for the informant has not controverted the submissions and stated that the informant has settled the dispute with the petitioners and does not want to proceed with the case; that the affidavit has also been filed by the informant accepting and agreeing to the settlement.

6. Heard. On perusal of the decision relied upon by the learned counsel for the petitioner it is evident in para-16 reference has been made to the guidelines laid down by the Supreme Court in State of Haryana and others Vs. Ch. Bhajan Lal and others, the extract of which is as follows:-

..... where the court will exercise jurisdiction under Section 482 of the Code of

Criminal Procedure could not be inflexible or laying down rigid formulae to be followed by courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution while invoking such powers.

In *Madhu Limaye Vs. The State of Maharashtra*, the Supreme Court while discussing the inherent powers vested in the High Court under Section 482 Cr.P.C. observed in an application under Section 397(2) that if for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit or affect the exercise of the inherent power of the High Court, though the order was interlocutory and not revisable. It was held that the bar will not operate in exercise of inherent power to prevent the abuse of the process of the court or to secure the ends of justice.

In *Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others*, , it has been observed:-

26. Nomenclature under which petition is filed is not quite relevant and that does not debar the Court from exercising its jurisdiction which otherwise it possesses unless there is special procedure prescribed which procedure is mandatory..... It may not however, be lost sight of that provision exist in the Code of revision an appeal but sometime for immediate relief Section 482 of the Code or Article 227 may have to be resorted to for correcting some grave errors that might be committed by the subordinate courts.....

7. In the light of the judicial pronouncement it is well settled that power under Section 482 have no limits however, such power should be exercised with utmost care and caution and as enunciated in the aforesaid decision and the object and purpose to exercise such power is to prevent abuse of process of any court or to secure the ends of justice and to ensure that the stream of administration of justice remains clean and pure.

In the aforesaid case of *B.S. Joshi (Supra)* it was held that if for purposes of securing the ends of justice, quashing of an FIR becomes necessary. Section 320 of the Code would not be a bar to the exercise of power of quashing.

8. Looking to the proposition of law and the settled legal position it is evident that in the present case, the informant has filed an affidavit that she has amicably settled the dispute with the petitioners. The copy of the compromise petition is on record along with the affidavit of the informant wherein, it is mentioned that she wants to withdraw the case. Thus the matters have been resolved by the informant wife with the petitioners on the terms and conditions agreed upon between the parties.

9. Taking into account the relevant facts and circumstances it is apparent that continuation of the litigation will only lead to tribulations and trial over a prolonged period for the parties which will prevent them from settling down to normal life in their young days and also lead to abuse of process of law and time of the Court and the trial will be an exercise in futility. Admittedly, the informant has on affidavit supported the quashing of the criminal proceedings on the ground that she has amicably settled the dispute outside the Court and considering that the settlement appears to be genuine and voluntary and joint compromise petition to this effect has also been filed in the trial court as evidence from the documents on record.

In view of the emergent facts and to prevent the abuse of process of law and with a view to secure the ends of justice, the entire criminal proceedings and the FIR dated 01.04.2011 in Ranchi Manila P.S. Case No. 4/2011 under Section 498A, 323(3), 54 and 34 I.P.C. and the order taking cognizance is hereby ordered to be quashed.

10. These applications are, hereby, allowed.